STATE HEALTH PLANNING AND DEVELOPMENT AGENCY
ADMINISTRATIVE CODE

CHAPTER 410-1-7
REVIEW PROCEDURES

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410-1-7-.01 Time Periods.

Any time period established herein shall begin on the day following the event, which invokes the time period. When the last day of the period falls on a Saturday, Sunday, or state or federal holiday, the period shall be extended to the next day which is not a Saturday, Sunday, or state or federal holiday. The time period shall expire at 5:00 p.m. on the last day of the computed period.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275(3).
History:

410-1-7-.02 Reviewability Determination Request.

(1) Any person may request for informational purposes only a determination as to the current reviewability of an anticipated project or determination of exemption for replacement equipment. Such request shall be submitted pursuant to Rule 410-1-3-.09 disclosing full factual information as may be more specifically identified on the SHPDA website, supplemented by any additional information or documentation which the Executive Director may deem necessary. Such request shall be attested by an officer, partner or authorized agent of the company having knowledge of the facts contained therein, utilizing the following form:

(a) Affirmation of Requesting Party: The undersigned, being first duly sworn, hereby make oath or affirm that he/she is [include position with entity requesting the determination], has knowledge of the facts in this request, and to the best of his/her/their information, knowledge and belief, such facts are true and correct.

Affiant _____ (SEAL)
SUBSCRIBED AND SWORN to before me this ____ day of _____.

_____
Notary Public
My commission expires:

(2) Upon a request being deemed complete, the Executive Director shall publish notice thereof on the Agency's web site and provide written notice to the general distribution list maintained by the Agency and, for informational purposes, to the CON Board as part of its monthly Board agenda.

(3) Within thirty (30) business days of publication of the request pursuant to (2) above, any affected person may file comments with the Agency pursuant to Rule 410-1-3-.09 regarding the issuance of the requested letter of non-reviewability. In addition, any affected person opposing such a determination of non-reviewability may seek a declaratory ruling by filing a petition with the CON Board, which request shall be governed by the provisions of Rule 410-1-9-.01. A copy of any such filings shall be served on the person requesting the reviewability determination.

(4) At any time following the thirty (30) day period, the Executive Director, giving due consideration to any comments received, shall respond to the request. Such response shall be rendered within forty-five (45) days of the request, unless the Executive Director finds that additional time is needed to obtain additional information or to evaluate comments filed in opposition of the request. A copy of the Agency's determination shall be

included in the SHPDA Review and, for informational purposes, to the CON Board, as part of the monthly Board agenda.

(5) The party seeking the reviewability determination or other affected person may challenge the Agency's reviewability determination by seeking a declaratory ruling from the CON Board, which shall be governed by Rule 410-1-9-.01.

(6) Should the law or regulations change and the anticipated project become subject to review, any determination furnished under this section shall become null and void.

(7) Except as provided below, all reviewability request shall be accompanied by a fee of $1,200.00. A request submitted under this rule addressing solely the exemption for the purchase of equipment shall be accompanied by a fee as specified in Code of Ala. 1975, §22-21-265(b)(4). Reviewability determinations associated with a change of ownership shall be governed by Rule 410-1-7-.04. Rural hospitals shall be exempt from the payment of fees under this chapter to the extent provided in Code of Ala. 1975, §22-21-265 (1975 as amended).

(8) All required filing fees must be submitted to the State of Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency's website.

Author: Emily T. Marsal
Statutory Authority: Code of Ala. 1975, §§22-21-263, 265, 275.
History: Amended: Filed June 12, 1997; effective July 17, 1997.
Amended: Filed October 30, 2007; effective December 4, 2007.
Amended: Filed March 26, 2012; effective April 30, 2012.
Amended: Filed August 23, 2016; effective October 7, 2016.
Amended: Published October 31, 2025; effective December 15, 2025.

410-1-7-.03 Notice Of Intent To Acquire.

Notice of intent to acquire shall be submitted in electronic PDF format, pursuant to Rule 410-1-3-.09, to the executive director of the state agency, by any person entering into a contract to acquire major medical equipment which will not be owned or located in a health care facility. Said notice shall be filed at least (30) days before the transaction occurs.

Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History: Amended: Filed August 23, 2016; effective October 7, 2016.

410-1-7-.04 Notice Of Change Of Ownership.

(1) A notice of a change in ownership or control of a health care facility or service for which a CON has been granted shall be provided to the State Agency by the acquiring entity at least twenty (20) days before the transaction occurs, unless a shorter period is authorized for good cause shown by the Executive Director.

(2) The notice of change of ownership or control shall be filed pursuant to Rule 410-1-3-.09 on forms approved by the State Agency, accompanied by a reviewability determination fee of $3,000.00 before the transaction occurs. Any transfer of ownership or control of a CON that has not become "vested" under Code of Ala. 1975, §22-21-270(d) must meet the requirements of Code of Ala. 1975, §22-21-270(e) to qualify for an exemption from CON review. The Executive Director shall issue a letter confirming the non-reviewability of any transfer of ownership or control that qualifies for an exemption under Code of Ala. 1975, §22-21-270.

(3) The notice shall include:

(a) the financial scope of the project to include the preliminary estimate of the costs broken down by equipment, construction, and yearly operating cost;

(b) the services to be offered by the proposal; (The applicant will state whether he has previously offered the service and whether the service is an extension of a presently offered service, or whether the service is a new service.)

(c) whether the proposal will include the addition of any new beds;

(d) whether the proposal will involve the conversion of beds;

(e) whether the assets and stock (if any) will be acquired; and

(f) any other information that the Executive Director shall deem necessary to ensure a full understanding by the State Agency.

(4) Any request made pursuant to this rule shall be subject to the publication requirements of Rule 410-1-7-.02, provided, however, the Executive Director may provide a determination or other response without regard to the time periods set forth in Rule 410-1-7-.02.

(5) All required filing fees must be submitted to the State Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency's website.
Author: Emily T. Marsal
Statutory Authority: Code of Ala. 1975, §22-21-270.
History: Amended: Filed March 26, 2012; effective April 30, 2012. **Amended:** Filed June 25, 2012; effective July 30, 2012. **Amended:** Filed September 19, 2013; effective October 24, 2013. **Amended:** Filed August 23, 2016; effective October 7, 2016. **Amended:** Published October 31, 2025; effective December 15, 2025.

410-1-7-.05 Letter Of Intent.

(1) A letter of intent must be filed electronically pursuant to Rule 410-1-3-.09 at least thirty (30) days prior to submission of a formal application, and shall be accompanied by a possessing fee of $300.00. The processing fee must be submitted to the State Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency's website.

(2) The letter of intent must contain as a minimum the information addressed in Rule 410-1-7-.04(3)(a)-(f). All letters of intent should be directed to the executive director of the state agency.

(3) The letter of intent must include the anticipated date of filing the formal application with the state agency.

(4) A letter of intent shall remain effective for a period of six (6) months from the date of receipt by the state agency. If no application is received by the state agency within the six-month period, the letter of intent will be rendered null and void.

(5) For those projects eligible for batching, use of the letter of intent in Rule 410-1-7-.19 should be noted.
Author: Emily T. Marsal
Statutory Authority: Code of Ala. 1975, §22-21-275(17).
History: Amended: Filed July 24, 2012; effective August 28, 2012. **Amended:** Filed August 23, 2016; effective October 7, 2016. **Amended:** Published October 31, 2025; effective December 15, 2025.

410-1-7-.06 Filing Of A Certificate Of Need Application.

(1) Formal application for a Certificate of Need review shall be made on the appropriate forms provided by the State Agency, or reasonable facsimile thereof. Information required for review may

vary depending on the nature of the proposal. The filing of a formal application with the Agency shall be a prerequisite for the issuance of a Certificate of Need.

(a) The applicant must submit the application to the Agency electronically in text searchable, PDF format, as required under SHPDA Rule 410-1-3-.09. In addition, applicants for a certificate of need for substance abuse treatment facilities or psychiatric beds shall also provide proof of publication of notice of the application once a week for two consecutive weeks in a newspaper of general circulation in the areas(s) affected, in such size and using such forms as provided by the Agency, and electronically submit proof of publication to the Agency no later than the 30th day of the review cycle. Where publication has occurred within the thirty day deadline but the newspaper failed to provide a notarized proof of publication, counsel may provide copies of the actual publication along with a notarized certificate from counsel or an employee of the applicant attesting to the newspaper and publication date. Failure to provide proof of publication by the 30th day of the review cycle will deem the application incomplete, and it will be dismissed from the review cycle in accordance with Rule 410-1-7-.07.

(b) Each application for a Certificate of Need except as provided below, shall be accompanied by a nonrefundable fee of one percent of the estimated cost of the proposed cost of the new institutional health service, or a maximum of $12,000.00 indexed and a minimum of $3,500.00.

1. An applicant, other than a rural hospital as defined by the Health Care Financing Administration, who has had an average daily census comprised of fifty percent (50%) or more Medicaid patients within the last year prior to the filing of the application must pay a filing fee of three-quarters of one percent of the cost of the proposed cost of the new institutional health service with a maximum of $8,000.00 and a minimum of $3,000.00.

2. A rural hospital applicant who has had an average daily census comprised of thirty percent (30%) or more Medicaid/Medicare patients within the last year prior to the filing of the application must pay a filing fee of three-quarters of one percent of the estimated cost of the proposed cost of the new institutional health service with a maximum of $6,000.00 and a minimum of $1,500.00.

3. All required filing fees must be submitted to the State Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency’s website.

(c) The application shall include a sworn statement as to the validity of the facts stated therein and shall be notarized by an official authorized to administer oaths in the State of Alabama.

(d) The filing fee is not refundable after the fee has been tendered to the State Agency.

(e) Any provisions of this regulation notwithstanding, a filing fee shall not be required at the time of the filing of the application if the Statewide Health Coordinating Council has not met and reviewed and/or revised the State Health Plan in the year proceeding the filing of the application unless and until the Statewide Health Coordinating Council shall subsequently meet and review and/or revise the State Health Plan. In said instances where the annual review comes after the initial filing of an application, the applicant shall have thirty (30) days in which to pay the requisite filing fee as established at the time of filing.

(2) The State Agency will have fifteen (15) days in which to determine whether the application is complete or incomplete. The 15-day period shall begin on the first working day following the date the application is received by the Agency; provided, however, that where an application is subject to the batching rules, the 15-day period shall begin on the 61st day of the batching cycle. In verifying that the application is complete, the State Agency shall determine that the application contains information sufficient to identify the health care provider that will offer the health service or operate the project and what qualifications and experience the health care provider possesses to successfully offer the health service or operate the project. The application should also contain information showing the applicant's plan for accessing the funds necessary to complete and operate the requested project within the project's projected budget.
Author: Emily T. Marsal
Statutory Authority: Code of Ala. 1975, §§22-21-267, 271, 275, Act 2003-331.
History: Amended: Filed February 12, 1996; effective March 18, 1996. **Amended:** Filed September 26, 2003; effective October 31, 2003. **Amended:** Filed May 3, 2005; effective June 7, 2005. **Amended:** Filed August 19, 2011; effective September 23, 2011. **Amended:** Filed July 24, 2012; effective August 28, 2012. **Amended:** Filed December 17, 2012; effective January 21, 2013. **Amended:** Filed August 23, 2016; effective October 7, 2016. **Amended:** Published April 30, 2025; effective June 14, 2025.

410-1-7-.07 Incomplete Applications.

(1) Upon determination that the application is incomplete, the state agency will notify the applicant of the additional

information required. The applicant will have thirty (30) days from the date of the notice in which to submit the additional information.

(2) Failure of the applicant to provide such additional information within the required thirty (30) days, will result in the application being deemed insufficient for certificate of need review and will be dismissed from the review process.

(a) The applicant will be notified if the application is dismissed from the review process.

(b) If the application is dismissed from the review process on the grounds that it is incomplete, the applicant will be required to file a new application with the required fee to enter the same project into the review process.

(3) The state agency's executive director may grant an extension of thirty (30) days to submit additional information in unusual circumstances, upon request by the applicant.

(4) Once the additional information is received as required, within the thirty (30) day period, the application will be deemed complete.

Author:
Statutory Authority: Code of Ala. 1975, §§22-21-267, 275.
History:

410-1-7-.08 Complete Applications.

Upon determination that the application is complete, the state agency will notify the applicant and other affected persons of the review schedule. This notification will include, at a minimum, the identification of the proposed facility or service, to include the name of the applicant, location of the project (that is, the area of the city or county, i.e., north, south, east, west, etc., in which the project is to be located), a description of the scope of the proposal and the review schedule.

Author:
Statutory Authority: Code of Ala. 1975, §§22-21-267, 275.
History:

410-1-7-.09 Project Review Period (Review Cycle).

The project review period shall be ninety (90) days (unless extended) from the date the application is deemed complete. The review period will begin on the date of notification that an application is complete, which shall be the date on which the

notice is sent to the applicant, affected persons and the appropriate newspapers.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History:

410-1-7-.10 Extension Of The Review Period.

(1) Extension by the state agency.

(a) The state agency may extend the project review period for a period not to exceed thirty (30) days with or without the consent of the applicant under the following conditions:

1. to allow time for competing or comparable applications to be heard in the same review cycle;

2. to allow additional time for review of difficult and complicated projects;

3. to allow the project to be reviewed at the next meeting of the Certificate of Need Review Board.

(b) The state agency may extend the review period without limitation with the written consent of the applicant.

(2) Extension by the applicant. The review period may be extended upon written request of the applicant for a period not to exceed thirty (30) days on a one-time basis.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275(3).
History:

410-1-7-.11 Withdrawal From The Review Process.

(1) The applicant may withdraw an application from the review process.

(a) The request to withdraw shall be made to the State Agency pursuant to the provisions of Rule 410-1-3-.09.

(b) If an application is withdrawn, the filing fee will not be refunded.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History: Amended: Filed August 23, 2016; effective October 7, 2016.

410-1-7-.12 Thirtieth (30th) Day Of The Review Period.

(1) Once an application is deemed to be complete by the State Agency staff, the applicant will then have thirty (30) days from this date in which to submit additional information. No additional data will be accepted or considered for inclusion in the application unless received on or before the thirtieth (30th) day of the review cycle, unless such additional information is requested by the Executive Director of the State Agency. Additional data may include but not be limited to the following:

(a) additional information, letters of support and other materials for the Board's consideration in ruling on the merits of the application;

(b) speakers to make the presentation to the Certificate of Need Review Board;

1. The applicant will provide to the State Agency staff a complete list of speakers by name on or before the thirtieth (30th) day of the review period. Speakers will be limited to those named; only at the sound discretion of the Chairman of the Certificate of Need Review Board will substitution be permitted.

2. If no list of speakers is received from the applicant, only the applicant or his designee will be allowed to speak.

3. The presentations to the Certificate of Need Review Board will be limited to the materials filed as a matter of record with the Agency on or before the 30th day of the review period.

(c) content of visual aids used in presentations to the Certificate of Need Review Board.

1. The applicant may use visual aids, such as graphs, charts and related materials in his presentation to the Certificate of Need Review Board, only if the content of such aids, provided in sufficient detail to allow any opponent to prepare a response thereto, is included in the application materials by the thirtieth (30th) day of the review cycle.

(2) The applicant must file an electronic PDF copy of any additional information filed as a matter of record with the State Agency.

Author:

Statutory Authority: Code of Ala. 1975, §22-21-275.

History: Amended: Filed March 13, 1997; effective April 18, 1997. **Amended:** Filed May 15, 1997; effective June 19, 1997. **Amended:** Filed December 17, 2012; effective January 21, 2013. **Amended:** Filed August 23, 2016; effective October 7, 2016.

410-1-7-.13 Forty-Fifth (45th) Day Of The Review Period.

(1) Once an application is deemed complete by the state agency staff, person(s) other than the applicant will have forty-five (45) days from the beginning of the review cycle in which to have filed with the state agency the following:

(a) information and letters for the Board's consideration in ruling on the merits of the application;

1. Person(s) other than the applicant, who wish to submit written statements, either in opposition or support of the application, must electronically filed their comments on or before the forty-fifth (45th) day of the review cycle.

(b) speakers to make presentations to the Certificate of Need Review Board:

1. person(s) other than the applicant who wishes to make an oral presentation to the Board must file a request with the state agency naming the person who is to speak on or before the forty-fifth (45th) day of the review cycle. Only at the sound discretion of the Chairman of the Certificate of Need Review Board will substitution be permitted.

2. persons other than the applicant who wish to make an oral presentation must have filed with the state agency a summary statement of the presentation before or on the forty-fifth (45th) day of the review cycle, and must limit their comments to the Board to the same.

(c) content of visual aids used in presentation to the Certificate of Need Review Board.

2. Persons other than the applicant may use visual aids such as graphs, charts, and related materials in the presentation to the Certificate of Need Review Board, only if the content of such aids is submitted to the state agency on or before the forty-fifth (45th) day of the review cycle, in sufficient detail to enable the applicant to prepare a response thereto.

(2) Affected persons filing any information with the Agency in support or opposition to a matter must file an electronic PDF copy

with the Agency pursuant to the provisions of Rule 410-1-3-.09, and certify that they have filed a copy of such materials on the applicant and all interveners the same day said materials are filed with the State Agency, either by hand delivery, First Class US Mail (postage prepaid), or overnight courier. If said materials are mailed, the same shall be postmarked the same date the materials are filed of record with the state agency. Filings not served on other parties in substantial compliance with this regulation may be excluded from the record.

(3) Affected persons as defined in Rule 410-1-2-.18 must file an electronic PDF copy of any materials filed of record with the State Agency pursuant to the provisions of Rule 410-1-3-.09. Any evidentiary submission, including documents, charts, or graphs must be accompanied by a sworn verification that the facts stated in the foregoing testimony are true to the best of the preparer's knowledge, information and belief. Such certifications and verifications shall be on such forms as may be provided by the Agency.

(4) Person(s) other than the applicant and affected persons will not be required to file a copy of their letter of support or opposition with the applicant.

(5) Letters from persons other than the applicant and affected persons will be placed in a separate file and made available to members of the Certificate of Need Review Board for their inspection during public hearings for the subject project.
Author: Alva M. Lambert
Statutory Authority: Code of Ala. 1975, §22-21-275.
History: Amended: Filed March 13, 1997; effective April 18, 1997. **Amended:** Filed May 3, 2005; effective June 7, 2005. **Amended:** Filed December 17, 2012; effective January 21, 2013. **Amended:** Filed August 23, 2016; effective October 7, 2016.

410-1-7-.14 Fiftieth (50) Day Of Review Period.

The state agency staff shall prepare a staff report on each application in the review process. The staff report shall be mailed to the applicant on or before the Fiftieth (50th) day of the review period.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History:

410-1-7-.15 Fifty-Fifth (55th) Day Of The Review Period.

The applicant or any intervener of record may request a contested case hearing, as described in Section 410-1-8-.02, on or before the 55th day of the review cycle.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History:

410-1-7-.16 Sixty-Fifth (65th) Day Of The Review Period.

The applicant may respond in letter form to the State Agency staff report and any comments submitted in opposition to the application on or before the sixty-fifth (65th) day of the review cycle, pursuant to the provisions of Rule 410-1-3-.09.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History: Amended: Filed August 23, 2016; effective October 7, 2016.

410-1-7-.17 Certificate Of Need Review Board Public Hearings.

(1) The Certificate of Need Review Board will hold monthly public hearings for the purpose of reaching decisions on all applications in the review cycle.

(a) The application should be scheduled to be heard by the Certificate of Need Review Board not less than eighty (80) days after the project has been deemed complete and no longer than ninety (90) days unless the application has been extended.

(b) Notification of the public hearing will be made in writing to the applicant and other affected parties. The general public will be notified of the public hearing through news releases. The notification will include the time, place, and nature of the public hearing.

(c) Where an Administrative Law Judge has conducted a contested case hearing with respect to an application or competing applications, pursuant to 410-1-8-.02, then presentations before the Certificate of Need Review Board shall be by written briefs filed with the agency no later than seven (7) days before the Certificate of Need Review Board meeting at which the recommended findings of fact and conclusions of law submitted by the Administrative Law Judge

are to be considered and/or, at the discretion of the Chairperson, by oral arguments.
Author: Alva M. Lambert
Statutory Authority: Code of Ala. 1975, §41-21-16, 41-22-15.
History: **Amended:** Filed March 13, 1997; effective April 18, 1997. **Amended:** Filed May 15, 1997; effective June 19, 1997. **Amended:** Filed February 1, 2000; effective March 7, 2000.

410-1-7-.18 Failure To Reach Decision Within Time Specified.

Should the state agency fail to reach a decision within the ninety (90) day project review period or an authorized extension thereof, the application will be deemed denied and the project deemed not to be needed.
Author:
Statutory Authority: Code of Ala. 1975, §22-21-275(3).
History:

410-1-7-.19 Batching.

(1) Batching is the formal review in the same 90-day review cycle and comparative consideration of all completed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(2) Batch eligible projects are only those facilities, services, and equipment, which are finite in number (such finite number being greater than zero) as defined by the State Health Plan.

(3) The concurrent review cycle (batching) begins when a letter of intent is submitted by an applicant for a project which is batch eligible. The letter of intent shall be in such detail as to advise the state agency and other health care providers in the same health service area of the nature, scope and approximate cost of the project for which certificate of need approval will be sought. (See 410-1-7-.04.)

(4) The following is the concurrent review schedule (batching):

(a) Day One (1): Day one (1) begins on the fifth (5th) working day following receipt of the letter of intent by the state agency at which time written notice will be sent to all affected persons, which will include a copy of the letter of intent. Notice will be sent to all affected persons by calendar day one.

(b) Day Thirty (30): On or before day thirty (30), all other letters of intent for a similar project must be submitted.

(c) Day Sixty (60): On or before day sixty (60), all certificate of need applications must be on file according to 410-1-7-.05(1). No certificate of need application will be deemed complete prior to the sixtieth (60th) day.

(d) Day Seventy-Five (75): On or before day seventy-five (75), the state agency will have determined whether the application is complete or incomplete.

(e) Day Ninety (90): On or before day ninety (90), all additional information for incomplete applications must be received or the project will be deleted from the concurrent review cycle.

(5) On day ninety (90), the project review period (Review Cycle) commences following 410-1-7-.08 through 410-1-7-.15, with the exclusion of 410-1-7-.09.

(6) There will be no extensions by the state agency or the applicant during the concurrent review cycle as described in this rule.

(7) If no other letters of intent are received by the state agency on or before day thirty (30) as described in this rule, then the applicant may proceed according to 410-1-7-.05.

(8) If no more than one (1) certificate of need application has been received by the state agency on or before day 60 as described in this rule, then the applicant may proceed according to 410-1-7-.05.

(9) Formal batching pursuant to this section is permissive and not mandatory where full competitive review may be afforded batch-eligible applications in the course of the normal review cycle. The determination whether formal batching pursuant to this section should be followed shall be made by the executive director in his discretion.

Author:
Statutory Authority: Code of Ala. 1975, §22-21-275.
History:

410-1-7-.20 Variance In Review Procedures.

Review procedures provided for in these regulations may vary according to the purpose for which a particular review is being conducted and/or the nature and type of service or expenditure proposed.

Author:
Statutory Authority: Code of Ala. 1975, §22-21-275(18).
History:

410-1-7-.21 Temporary Fee Surcharge (Repealed 9/14/23).
Author: Alva M. Lambert
Statutory Authority: Code of Ala. 1975, §22-21-271(d).
History: New Rule: Filed July 24, 2012; effective August 28, 2012. **Repealed:** Published July 31, 2023; effective September 14, 2023.